



NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

RIN 3142—AA21

Standard for Determining Joint Employer Status

AGENCY: National Labor Relations Board.

ACTION: Final rule; delay of effective date.

SUMMARY: On October 27, 2023, the National Labor Relations Board (Board) published a final rule rescinding and replacing its rule regarding the standard for determining joint employer status under the National Labor Relations Act. The Board hereby amends that rule to change the effective date from December 26, 2023, to February 26, 2024. The purpose of this amendment is to facilitate the resolution of the legal challenges with respect to the rule.

DATES: The effective date of the final rule amending 29 CFR Part 103 published at 88 FR 73946, October 27, 2023, is delayed from December 26, 2023, to February 26, 2024.

FOR FURTHER INFORMATION CONTACT: Roxanne L. Rothschild, Executive Secretary, National Labor Relations Board, 1015 Half St. SE, Washington, DC 20570-0001, (202) 273-1940 (this is not a toll-free number) or 1-844-762-NLRB (6572) (this is a toll-free number).

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SUPPLEMENTARY INFORMATION: On October 27, 2023, the National Labor Relations Board published a final rule rescinding and replacing the final rule entitled “Joint Employer Status Under the National Labor Relations Act,” which was published on February 26, 2020, and took effect on April 27, 2020. The final rule establishes a new standard for determining whether two employers, as defined in the Act, are joint employers of particular employees within the

meaning of the Act. The Board believes that this rule will more explicitly ground the joint-employer standard in established common-law agency principles and provide guidance to parties covered by the Act regarding their rights and responsibilities when more than one statutory employer possesses the authority to control or exercises the power to control particular employees' essential terms and conditions of employment. Under the final rule, an entity may be considered a joint employer of another employer's employees if the two share or codetermine the employees' essential terms and conditions of employment.

On November 6, 2023, a petition for review of the final rule was filed in the United States Court of Appeals for the District of Columbia Circuit. *Service Employees International Union v. NLRB*, No. 23-1309 (D.C. Cir.). Then, on November 19, 2023, a challenge to the final rule was filed in the U.S. District Court for the Eastern District of Texas. *Chamber of Commerce of the United States of America, et. al v. NLRB*, No. 6:23-cv-00553 (E.D. Tex.). The Board has determined that postponing the effective date of the rule would facilitate the resolution of the legal challenges that have been filed with respect to the rule. 5 U.S.C. 705. Accordingly, the Board has decided to change the effective date of the rule from December 26, 2023 to February 26, 2024.

Dated: November 17, 2023.

Roxanne L. Rothschild,
Executive Secretary.

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